

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Minutes

November 20, 2003, 10:00 AM – 2:00 PM

State Courts Building, Conference Room 119

CIDVC Website: <http://www.supreme.state.az.us/cidvc/>

CIDVC Members Present

Hon. William O'Neil, Chair
Hon. George T. Anagnost (Telephonic)
Jerry Bernstein, Esq.
Allie Bones
Hallie Bonger-White, Esq. (Telephonic)
Evelyn Buckner
Martha Fraser Harmon
Donna Irwin
Bob James
Hon. Ronald I. Karp
Patricia Klahr
Sheri Lauritano, Esq.
Robert M. Lehner, Assist. Police Chief
Hon. Mark Moran
Tracey Wilkinson

Members using a Proxy

Hon. Danna Hendrix (Bob James, Proxy)
Hon. Chris Wotruba (Bob James, Proxy)

Quorum: Yes

Members Not Present

Margaret Bentzen
Lt. Mark Carpenter
Hon. Sherry Geisler
Hon. Danna Hendrix
Dr. Teresa Lanier
Hon. Denise I. Lundin
Hon. Mary Maley
Anu Partap, M.D.
John Pombier, Esq.
Hon. Chris Wotruba

Staff Present

Konnie Young
Karen Kretschman
Isabel Gillett

Guest

Hon. Mark Armstrong
Hon. Carey Hyatt
Hon. Elizabeth Finn
Robert Roll, IT Division, AOC

1. Call Meeting to Order:

Judge O'Neil called the meeting to order at 10:00 AM. All those present introduced themselves. Guests attending the meeting were welcomed.

2. New Materials:

The following new materials were distributed to the members:

- a) *Revised Membership List*
- b) *Workgroup Membership List*
- c) *Proposed Meeting Schedule*

For the sake of the members who were present via telephone, Judge O'Neil read off the dates for CIDVC meetings for 2004, which are all on Wednesdays: **02/11/04, 05/12/04, 08/18/04 and 11/10/04.**

3. Review of Previous Meeting Minutes:

Minutes of the August 28, 2003 meeting were reviewed. One correction was submitted that was on page 2, section 4 in regard to a change on contempt. The paragraph was correct except that following "page 11-9," there should be a period. The remaining portion of the sentence is not applicable to contempt and, therefore, will be stricken.

Motion: Minutes be accepted

Vote: Unanimous (verbal vote)

4. Rules for Conducting Committee Business:

The Committee discussed and approved the following rules for conducting Committee business:

- 1.) **DECISIONS/ACTIONS:** Committee decisions will be made by consensus and/or majority vote (if there is a quorum), and a numerical vote will be recorded unless it is unanimous.
- 2.) **MEETINGS:** The Committee will meet quarterly, eliminating December and June meetings; additional meetings might be necessary, and workgroups will meet more frequently. Following is the CIDVC meeting schedule for 2004: February 11th, May 12th, August 18th and November 10th.
- 3.) **QUORUM POLICY:** The minimum for a quorum will be determined by the presence of 50% plus one member. Attendance by all members is expected for all meetings; however, representation by proxies is permissible, and proxies will be counted to comprise a quorum.
- 4.) **PROXY POLICY:** Committee members may send proxies to attend meetings when necessary but written notice must be sent to the Committee Chair and Supreme Court Staff prior to meetings attended by proxies. A CIDVC member

may serve as a proxy for another CIDVC member, but a proxy does not have to be a member of CIDVC. Members who must be absent from meetings must fully inform proxies of Committee business prior to meetings, and proxies may vote on items in the place of the members they represent.

Following are details of the discussion which culminated in the summary of decisions (above):

Motion: A motion was made that members could utilize other members to vote as proxies for them either written or orally.

Vote: In favor-Unanimous (verbal vote)

Motion: Another member made a motion to allow a member to utilize a “non-member” as proxy.

Vote: Judge O’Neil counted the votes after asking each member/ proxy to state his or her name and voting position; the motion passed 7-5 as a result that non-members could serve as proxies.

The next proposal that was made was that a member was authorized to utilize one proxy per year; personal attendance would be required 75% of the four meetings.

Motion: 100% attendance is required either personally or by proxy with the exception of extraordinary circumstances as determined by the Committee Chair.

Vote: In favor-Unanimous (verbal vote)

Notification that members will be using proxies needs to be in writing, but it can be verbal to the Chair or AOC Staff. The members voted in favor of this method. It was voted to utilize an informal written proxy which includes e-mail for proxies.

Motion: Utilizing an informal written proxy which includes e-mail for proxy.

Vote: In favor-Unanimous (verbal vote)

TASK: Konnie will revise and distribute a new proxy form to all members.

The present quorum is one-half of the actual standing membership; it is not one-half of the slots that are available on the Committee.

Motion: The quorum will be one-half of the appointed members plus one.

Vote: In favor-Unanimous (verbal vote)

Next issue is if proxies properly count towards the determination of quorum.

Motion: Proxies will be included in the establishment of quorum.

Vote: In favor-Unanimous (verbal vote)

5. DV Court (Maricopa) Presentation:

Bob James invited and introduced two guests who are Judicial Officers from the Superior Court in Maricopa County, Hon. Mark Armstrong and Hon. Carey Hyatt. Judge Armstrong is the presiding judge in the Family Court Department in the Superior Court in Maricopa County; Judge Hyatt is a Domestic Violence Court Judge. These two judges spoke about the development of the Domestic Violence Court, distributed pamphlets about the DV Court, and addressed questions posed by CIDVC members.

6. Workgroup Reports:

DV Forms Report:

The CIDVC Domestic Violence Forms Workgroup has worked diligently to revise DV Forms and has recently completed two forms which do not have IT implications: 1) the General Petition and 2) a Guide Sheet. The Domestic Violence Forms Workgroup has amended the existing forms to promote the use of uniform and efficient legal forms at all levels of the court system. 1) Injunction against Harassment; 2) Order of Protection and 3) Injunction Against Workplace Harassment. The DV Forms Workgroup also amended the language used on the forms to make the forms easier to understand and complete by *pro se* parties. Furthermore the new Guide Sheet has been drafted to accompany the General Petition for protective orders and enhance comprehension. It replaces the former Petitioner's Confidential Information Sheet. Both the General Petition and Guide Sheet have met the approval of the Limited Jurisdiction Committee, the Committee on Superior Courts, and the Arizona Judicial Council. These two forms will roll out to all courts electronically and Courts will be able to use them immediately or use up existing supplies until mandatory use goes into effect on February 1, 2004.

Brady Issues Report:

Judge Elizabeth Finn presented a PowerPoint presentation entitled, "Guns," which deals with the state statute and the Brady statute. Judge Finn stated that the Brady law is federal, and Lautenberg is a federal statute that does not have anything to do with orders of protection but does deal with misdemeanor crimes. The state statute allows a judge to prohibit an individual from possessing firearms in an *ex parte* hearing. This is separate and independent from Brady.

Lautenberg does not deal with orders of protection; it deals with being convicted of a misdemeanor crime of domestic violence which is defined as "a force, a threat and use of force" and applies to everyone. The Brady statute states that the order has to be a restraint on conduct or a finding of credible threat. The key to Brady is that it lasts the length of the order; when the order expires, then the Brady statute is over.

Under state statute, protective orders apply, no hearings are required, no relationships are required, and it lasts the length of the order and no exemptions. Under Brady protective orders only, only after a hearing, meet the narrow relationship test, and it lasts the length of the order; there are exemptions for law enforcement and military. Lautenberg applies

only to criminal convictions, and there is a relationship test—same one as in Brady—and lifetime prohibition unless set aside, and no exemptions.

TASK: Konnie will send an electronic version of Judge Finn's *Guns* presentation to the Committee.

DV Benchbook Report:

A draft version of the DV Benchbook went to the printer on December 1, 2003, and 100 will be printed for Ed. Services and the NJO training in early January. Judge Finn will teach from the draft version at the NJO training and the DV Benchbook workgroup will continue to meet in December and January to finalize and present it to the CIDVC membership in February for final vote. Once this is all completed, it will not be printed in hard copy but rather on CD ROM and sent to all the judges.

DV Criminal Benchbook Report:

The vote for approval for this Benchbook has been tabled until February when CIDVC meets again. The draft that is on the CIDVC website does not reflect the changes that were already made to the document. A hard copy was presented to Judge Moran that does reflect the changes that were made. The area of concern was Chapter 12 which is the Batterer Intervention section and what specifics should be changed or incorporated. A meeting for the DV Criminal Benchbook will be planned in December to finalize the incorporation of the items which belong in the Criminal Benchbook from the Civil Benchbook. Also, the updated draft will be posted on the website before the February CIDVC meeting. The Benchbook will also be distributed to the courts on DC ROM after the February CIDVC meeting.

Legislation Report:

Judge O'Neil stated that there was nothing to report other than he had presented to the presiding judges on the topic of charging filing fees for protective orders. This problem was more in the lower courts.

TASK: Judge O'Neil will send out a letter that will go out the first week of December to the presiding judges reminding them of this request.

CPOR Report:

Robert Roll and Konnie Young have presented and received approval from CIDVC, LJC and COSC on two enhancements to CPOR/LPOR that will provide faster, more complete protection for victims of domestic violence and improved nationwide protection as well. The two recommendations are: 1) to enable the Holder of Record to have the ability to supplement electronic LPOR data and 2) to allow the Holder of Record access to unserved protective orders in LPOR. Robert and Konnie will present these two proposed enhancements for AJC approval on December 11, 2003. Robert and Konnie have also coordinated their efforts with DPS which is currently field-testing the CPOR process to clean-up data quality issues. This effort is funded by the STOP Grant, and the new CPOR process will go into effect in participating courts on January 22, 2004.

TASK: Konnie will send the electronic PowerPoint *CPOR/LPOR Protective Order Presentation* to the Committee.

7. Reappointment/Appointment Process Update

Konnie Young reported that the reappointment and new appointment package was submitted the second week of November with 13 of the 14 CIDVC members whose terms expire on December 31, 2003 expressing an interest in being reappointed. There are also four open positions on CIDVC, and potential new members submitted applications and resumes for appointments in the following categories of membership: two limited jurisdiction judges, one Sheriff's Office representative, and one Arizona domestic violence coalition representative.

8. Strategic Planning:

Judge O'Neil stated that there were four areas that he wanted the Committee to focus on: 1) hard copies of benchbooks and the new petition; 2) education; 3) training for clerks and judges and 4) publicizing (i.e., this Committee, this area). Donna Irwin added that an area that needs focus is also education and training for legislators and other community groups.

9. Call to the Public:

No members appeared.

10. Next Meeting:

February 11, 2004, 10:00 – 2:00 PM, AOC Conference Room 230, Phoenix, AZ

11. Adjournment:

Judge O'Neil adjourned the meeting at 2:00 pm.